

MJC:mes 95465 \Pleading\95465 11 Our Rule 16 Statement 5-4-20

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

NELSON SANTIAGO, ET AL

VS.

MATTHEW SHERIDAN, ET AL

:
:
:
:
:

C.A. NO. 1:19-cv-00591-JJM-PAS

DEFENDANTS' RULE 16(b) STATEMENT

I. PARTIES

The plaintiffs are Nelson Santiago and Abel Sanchez. Both plaintiffs are represented by Albert E. Medici, Jr.

The defendants are Providence Patrol Officer, Matthew Sheridan, and the City of Providence. Defendant Sheridan is represented by Michael J. Colucci. The City is represented by Kevin F. McHugh.

II. BRIEF STATEMENT OF FACTS

This matter arises out of the arrest of both plaintiffs on November 13, 2016, outside of a local nightclub known as Club Lovera at 1280 Broad Street in the City of Providence. The incident occurred shortly before 3:00 a.m. Police had responded to the nightclub to suppress a number of disturbances that were taking place as patrons left the club and milled about the parking areas. At one point, Officer Sheridan noticed an argument emanating from a parked vehicle. The plaintiff Sanchez was arguing with a front seat passenger, who turned out to be plaintiff Santiago. Officer Sheridan advised Sanchez that they had to disburse from the area at which time Sanchez confronted Sheridan for getting involved. Sheridan continued to direct them to leave the area and was then pushed by Sanchez. Sheridan attempted to take control of Sanchez at which time Santiago got out of the vehicle and attempted to pull Sheridan away from Sanchez. Sheridan was able to hold on to both individuals long enough for other officers to arrive and assist in the apprehension.

III. CLAIMS

The plaintiffs filed a sixteen count complaint which, in essence, can be broken down as follows: Both plaintiffs seek relief under 42 U.S.C. § 1983 for alleged excessive force committed by Officer Sheridan. They also assert state law claims of assault and battery (Counts I-VI).

Both plaintiffs assert state law claims of intentional infliction of emotional distress against Officer Sheridan (Counts VII-VIII).

Both plaintiffs assert claims against the defendant City for violation of § 1983 via training, hiring and discipline (Counts IX-X).

Each plaintiff likewise asserts parallel claims under the Rhode Island State Constitution against both defendants (Counts XI-XIV) as well as “vicarious liability” against the City (Counts XV-XVI).

IV. LEGAL ISSUES

The plaintiffs’ claims for excessive force present no significant legal issues and are basically factual in nature. The state constitutional claims are subject to dismissal as no private cause of action exists under the state Constitution and/or no such right of action is inferred when an avenue of relief already exists (which in this case does via § 1983), accord *Bandoni v. State of Rhode Island*, 715 A.2d 580 (R.I. 1998); *Folan v. State DCYF*, 723 A.2d 287 (R.I. 1999).

The remaining claims against the City are subject to the well settled law as enunciated in *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978) and *City of Canton v. Harris*, 489 U.S. 378 (1989).

DEFENDANT, Matthew Sheridan
By his Attorney,

/s/ Michael J. Colucci
Michael J. Colucci, Esq. #3302
OLENN & PENZA, LLP
530 Greenwich Avenue
Warwick, RI 02886
PHONE: (401) 737-3700
FAX: (401) 737-5499
EMAIL: mjc@olenn-penza.com

DEFENDANT, City of Providence
By its Attorney,

/s/ Kevin F. McHugh
Kevin F. McHugh, Esq. #3927
Senior Assistant City Solicitor
City of Providence
City Solicitor's Office
444 Westminster Street, Suite 220
Providence, RI 02903
PHONE: (401) 680-5333
FAX: (401) 680-5520
EMAIL: kmchugh@providenceri.gov

CERTIFICATION

I hereby certify that I have filed the within with the United States District Court on this 4th day of May, 2020, that a copy is available for viewing and downloading via the ECF system, and that I have caused a copy to be sent to:

Albert E. Medici, Jr., Esq.
1312 Atwood Avenue
Johnston, RI 02919

/s/ Michael J. Colucci